National Labor Relations Board Weekly Summary of



NLRB Cases

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Aramark Educational Services, Inc., et al. (1-CA-43486, et al.; 355 NLRB No.11) Cambridge and Boston, MA, Feb. 18, 2010. The Board's supplemental decision affirmed certain of the administrative law judge's findings in his initial decision and his findings on remand. The Board agreed with the judge's finding in his initial decision that UNITE HERE Local 26 timely requested bargaining with the Respondents, three Aramark subsidiaries, in Sept. 2006 and had not contractually waived its statutory right to bargain about the Respondents' Social Security no-match policy which required employees to take steps to correct discrepancies within 14 days or face suspension, and fully correct problems within 90 days. [HTML] [PDF]

The judge also found that Aramark's vice-president of labor relations began bargaining in Sept. about the policy with the UNITE HERE International Union, which is authorized to bargain for its local unions. In Oct. and Nov. 2006, Respondents suspended 15 employees who failed to begin timely corrective action. Aramark and the International then reached an oral agreement in Nov. to freeze implementation of the policy during their negotiations without rescinding the suspensions. In his initial decision, the judge dismissed allegations related to unilateral implementation of the policy in Sept. 2006 finding any violations was "cured" when Aramark bargained with the International, froze implementation, and reached a bargaining impasse.

In a June 3, 2009, unpublished decision, the Board remanded the case to the judge for further analysis of his dismissal of the allegations related to the Respondents' implementation of the no-match policy. The Board affirmed the judge's findings on remand that the Respondents violated Section 8(a)(5) of the Act by unilaterally implementing the policy and by suspending employees before any impasse in bargaining with the International and that the International's agreement to freeze implementation did not "cure" the violation. The Board affirmed the judge's finding that the Respondents' unremedied unfair labor practices did not taint the negotiations with the International and that the parties reached a good-faith bargaining impasse in Jan. 2007 that permitted the Respondents to implement the policy.

The Board ordered that the unlawfully suspended employees be reinstated and made whole for any loss of wages and benefits, leaving to compliance the effect of the employees' immigration status and the parties' "freeze" agreement on the make-whole remedy. The Board also affirmed the judge's finding in his initial decision that the Respondents did not unlawfully fail to comply with Local 26's requests for information, but it relied only on his finding that the Respondents, based on discussions with the International, furnished the same information to Local 26 that was furnished to the International, without objection.

(Chairman Liebman and Member Schaumber participated.)

Charges filed by UNITE HERE, Local 26; complaint alleged violation of Section 8(a)(1) and (5). Hearing at Boston, Oct. 23-24, 2007. Adm. Law Judge Wallace H. Nations issued his decision May 8, 2008 and his supplemental decision Sept. 30, 2009.

International Union of Elevator Constructors Local 8 (Otis Elevator Co.) (20-CD-00745, 355 NLRB No. 13) Lodi and Carmichael, CA, Feb. 19, 2010. In this proceeding under Section 10(k) of the Act, the Board found reasonable cause to believe that the International Union of Elevator Contractors, Local 8, violated Section 8(b)(4)(D) of the Act, by attempting to force the Employer to assign work to employees represented by the Union, rather than to employees of certain flooring contractors that had previously done the work. The Board also found that no voluntary method existed for the adjustment of the dispute. [HTML] [PDF]

The Board concluded that the employees of the flooring contractors are entitled to perform the work in dispute, relying on the factors of employer preference and past practice, area practice, relative skills and training, and economy and efficiency of operations.

(Chairman Liebman and Member Schaumber participated.)

UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRESENTATION CASES

(In the following case, the Board considered exceptions to the Report of Regional Director)

DECISION AND ORDER [remanding proceeding to the Regional Director for further appropriate action]

Cintas Corp., Port Washington, NY, 29-RC-11769, Feb. 16, 2010 (Chairman Liebman and Member Schaumber participated.)

(In the following case, the Board adopted Report of Hearing Officer in the absence of exceptions)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Gelita, USA, Sergeant Bluff, IO, 18-RD-02690, Feb. 2, 2010

(In the following cases, the Board granted the requests for review of the Decisions and Directions of Elections (D&DE) and Decisions and Orders (D&O) of the Regional Directors)

Allied Barton Security Services, LLC, Conshohocken, PA, 5-RD-01467, 01468, Feb. 4, 2010 (Chairman Liebman and Member Schaumber participated.)

Securitas Security Services USA., Inc., Chicago, IL, 5-RD-01470, Feb. 4, 2010 (Chairman Liebman and Member Schaumber participated.)

Watkins Security Agency of D.C., Washington, DC, 5-RD-01465, 01466, Feb. 4, 2010 (Chairman Liebman and Member Schaumber participated.)

(In the following case, the Board denied requests for review of the Decision and Direction of Election (D&DE) and Decision and Order (D&O) of the Regional Director)

St. Vincent Healthcare, Billings, MT, 27-RC-08577, Feb. 17, 2010 (Chairman Liebman and Member Schaumber participated.)

DECISIONS OF ADMINISTRATIVE LAW JUDGES

Acme Bus Corp. (Teamsters Local 445) Middletown, NY, Feb. 17, 2010, 2-CA-38981, 39422; JD(NY)-2-10, Judge Steven Davis.

Almonte Beach Food Corp. d/b/a Associated Supermarket (Food & Commercial Workers Local 338) Long Beach, NY, Feb. 17, 2010, 29-CA-29830; JD(NY)-4-10, Judge Joel P. Biblowitz.

Fresh & Easy Neighborhood Market Inc. (Food & Commercial Workers and an Individual) Las Vegas, NV, Feb. 17, 2010, 28-CA-22520, et al.; JD(SF)-6-10, Judge Gregory Z. Meyerson.

International Alliance Theatrical Stage Employees Local 478 (an Individual) New Orleans, LA, Feb. 17, 2010, 15-CB-05827; JD(ATL)-3-10, Judge Margaret G. Brakebusch.

Carnival Carting, Inc. and Romar Sanitation, Inc. (Teamsters Local 813) Woodside, NY, Feb. 17, 2010, 29-CA-20586, 22552; JD(NY)-3-10, Judge Eleanor MacDonald.

Center Construction Co., Inc., d/b/a Center Service System Division (Plumbing and Pipe Fitting Local 370) Burton, MI, Feb. 17, 2010, 7-CA-46490, et al.; JD-9-10, Judge Richard A. Scully.

Bristol Manor Health Care Center (SEIU 1199 New Jersey Health Care Union) Rochelle Park, NJ, Feb. 18, 2010, 22-CA-28153, et al.; JD(NY)-5-10, Judge Mindy E. Landow.

Triple A Fire Protection, Inc. (Plumbing and Pipe Fitting Local 669) Semmes, AL, Feb. 18, 2010, 15-CA-11498; JD(ATL)-2-10, Judge Keltner W. Locke.